

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GUERDA OCCILIEN,

Plaintiff,

v.

RELATED PARTNERS, INC.; ARTERO  
JIMENEZ; KATHERINE BLOCK;  
HUDSON YARDS CONSTRUCTION II  
HOLDINGS LLC; HUDSON YARDS  
CONSTRUCTION II LLC; HUDSON  
YARDS CONSTRUCTION LLC; RUSSELL  
TOBIN & ASSOCIATES,

Defendants.

19 Civ. 7634 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

The Court is in receipt of Plaintiff's filing, which was emailed to the Court on July 22, 2020. The Court will be docketing this filing separately. As an initial matter, the Court reminds Plaintiff that all communication with the Court by a pro se party must be sent to the Pro Se Intake Unit. A pamphlet explaining this process is attached. The Court does not accept filings or other communications from pro se plaintiffs directly. No filings should be sent directly to Chambers, either by mail or by email. Pro se litigants should not contact the Court by telephone or email, and instead must direct all inquiries to the Pro Se Intake Unit. Plaintiff may contact the Pro Se Intake Unit at (212) 805-0175 during normal business hours, 8:30am - 5:00pm, Monday – Friday.

The Court understands that Plaintiff may have misunderstood Defendants' pending motion to dismiss. On April 6, 2020, Defendants The Related Companies, L.P., Hudson Yards Construction, LLC, Katherine Block,

Hudson Yards Construction II, LLC, and Hudson Yards Construction Holdings II, LLC filed an answer to Plaintiffs complaint, asserting twelve affirmative defenses. (Dkt. #39). Affirmative defenses are often over-inclusive, and designed to cover issues that might arise later. Plaintiff's July 22, 2020 filing appears to respond to these affirmative defenses. At this time, Plaintiff does not need to respond to this answer or its affirmative defenses.

The Court is concerned, however, that Plaintiff has not responded to the motion to dismiss that Defendant Russell Tobin & Associates filed on April 24, 2020 (Dkt. #46-48), joined by the other defendants on April 27, 2020. (Dkt. #49). By Order dated April 27, 2020, Plaintiff was to file her opposition to the motion to dismiss on or before June 29, 2020. (Dkt. #50). A copy of that Order is enclosed. If Plaintiff intends for her July 22, 2020 email to be her opposition to Defendants' motion to dismiss, she should inform the Court, via the Pro Se Intake Unit. And if Plaintiff did not receive Defendant's motion to dismiss papers, she should inform the Court (again via the Pro Se Intake Unit). Out of an abundance of caution, the Court ORDERS Defendants to email Plaintiff the papers that they have filed in support of their motion to dismiss, docketed at Dkt. #46-49. Plaintiff is instructed to inform the Court, through the Pro Se Intake Unit, whether she intends to file an opposition to the motion to dismiss, or whether she intends her July 22, 2020 email to serve as an opposition, by **August 14, 2020**.

The Court addresses two other issues raised in Plaintiff's July 22, 2020 email. First, Plaintiff requests that certain documents be dismissed from the

case, which the Court interprets as a motion to strike. At this early stage of litigation, the Court will not strike these documents, though it takes to heart Plaintiff's statements about their authenticity. Second, to the extent Plaintiff requests documents from Defendants, the Court reminds Plaintiff that after the pending motion to dismiss is resolved, she can pursue these requests in discovery.

The Court delivers copies of its orders to pro se litigants by mail and cannot send copies of its orders to pro se litigants by email unless the litigant does not have a mailing address. Given certain time sensitivities, and for one time only, the Court will email a copy of this Order to Plaintiff, in addition to sending a copy by mail.

SO ORDERED.

Dated: July 24, 2020  
New York, New York



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KATHERINE POLK FAILLA  
United States District Judge

*Sent by First Class Mail to:*

Guerda Occilien  
522 West 147th Street  
3rd Floor, Apt. 31  
New York, NY 10031

*Sent by email to:*

Guerda Occilien  
g.occilien@yahoo.com



**United States District Court  
Southern District of New York**  
[Temporary\\_Pro\\_Se\\_Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov).

## **INSTRUCTIONS: EMAIL PRO SE FILINGS**

### **How do I email documents to the Clerk's Office for filing?**

- **SIGN.** You must sign your document by either signing the document before you scan it or typing "/s/ [Your Name]." The Court will accept typed signatures in this format.
- **CONTACT INFORMATION.** The document must include your name, address, telephone number and email address (if available).
- **SUBJECT LINE.** For existing cases, the subject line of the email must read, "Pro Se Filing – XX-CV-XXXX." For new cases, the subject line of the email must read, "Pro Se Filing – New Case."
- **EMAIL** the PDF document to  
[Temporary\\_Pro\\_Se\\_Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov).

### **Can I start a new case by email?**

- **YES.** To start a new case, you may email your complaint to  
[Temporary\\_Pro\\_Se\\_Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov).
- In addition to emailing your complaint, you must either (1) email an application requesting that the fee be waived, available at <https://nysd.uscourts.gov/node/838>, or (2) pay the filing fee of \$400. If you are paying the filing fee, add to the subject line, "Pro Se Filing – New Case – FEE PAID." Payment must be made within 21 days by certified check or money order, made out to Clerk, USDC, SDNY, and mailed to: Cashiers-Room 120, 500 Pearl Street, New York, NY 10007. The check must include the case number, which you can learn by calling (212) 805-0175.

### **Can I include any questions or information in my email?**

- **NO.** You must only include the attached document(s) for filing. No one will read messages in the body of the email and no one will respond to any questions.

### **Will someone respond to my email?**

- **NO.** This email address cannot respond to inquiries. The Clerk's Office will download the email attachment. This is a NO-REPLY email address. But you may call (212) 805-0175 to confirm that your documents were received. Please wait at least one week before calling.

### **Can I email the assigned judge instead?**

- **NO.** Any submission emailed to any other court email address will be disregarded by the recipient.

### **Can the Clerk's Office assist with scanning?**

- **NO.** If you are unable to email your documents, you must submit them by mail to the Pro Se Intake Unit.

### **Can someone email my documents for me?**

- **YES.** But please include your email address, if available, in the document. The Court will only communicate with the email address listed on the filed documents, and only if you have consented to receive court documents by email.

### **Can I receive court documents by email?**

- **YES.** Complete and email a signed [consent to electronic service](#) form.

HOFFMANN & ASSOCIATES  
Attorneys at Law  
450 Seventh Avenue, Suite 1400  
New York, New York 10123  
Tel. (212) 679-0400  
Fax (212) 679-1080

ANDREW S. HOFFMANN

TRAM D. LOPRESTO

April 18, 2020

**By ECF**

Hon. Katherine Polk Failla, U.S.D.J.  
United States District Court for the Southern District  
40 Foley Square  
New York, NY 10007

**MEMO ENDORSED**

Re: Occilien v. Related Partners, et al.  
Index No. 19-cv-7634

Dear Judge Failla,

We write, as requested by Your Honor's Law Clerk, concerning our failure to file an answer in the above-captioned matter to date.

It is certainly true that our firm appeared before the Court on January 9, 2020 to request permission to intervene in the suit, which was subsequently granted by the Court and that our client was required to answer on or before April 1, 2020.

With this letter, we respectfully request that the Court grant defendant Russell Tobin & Associates, *non pro tunc*, until April 24, 2020 to answer or otherwise move with respect to the Complaint herein. As we have previously advised the Court, our client is party to an employment agreement with plaintiff which contains a mandatory arbitration clause. As such, it is our intention to move to dismiss the Complaint in lieu of arbitration.

On March 12, 2020, a day after the Court issued its scheduling Order, I temporarily relocated to a rental home in Southern New Jersey, about three (3) hours from Manhattan, because I am being treated for a serious medical condition that puts me at a high risk of infection and complications during the current Covid-19 pandemic. My small firm is now attempting to operate our office remotely, however none of our files are digitized and we are having great difficulty operating efficiently without access to our offices. In my haste to find a new residence and get out of town, the Court's Order

of March 11, 2020 completely slipped my mind. It certainly was not an intentional disregard for the Court's Order and we sincerely apologize for this oversight. For this reason, we respectfully seek this short extension of our time to respond to the complaint.

Respectfully submitted,

/s/ Andrew S. Hoffmann  
Andrew S. Hoffmann

Under ordinary circumstances, the Court would not consider Defendant Russell Tobin & Associates' counsel's claim that a filing deadline slipped his mind to be an acceptable excuse to justify a late filing. However, in light of the current pandemic and the impact that Defendant's counsel advises the Court that it has had upon him, the Court will accept Defendant's response to Plaintiff's Complaint as timely. The Court wishes counsel and parties good health.

Defendant's counsel is reminded that the Court's Individual Rules of Practice in Civil cases require that pre-motion submissions be made before motions to dismiss are filed. Nevertheless, given the scheduling difficulties occasioned by the pandemic and the fact that the parties have already appeared for an initial pretrial conference, the Court will accept Defendant's motion to dismiss, and hereby sets the following briefing schedule: Plaintiff shall file her opposition papers on or before June 29, 2020; Defendant shall file its response papers, if any, on or before July 29, 2020.

Defendant Russel Tobin & Associates is further ORDERED to provide Plaintiff with paper copies of all cases and statutes cited in its motion as soon as is practicable.

Dated: April 27, 2020  
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE

*A copy of this Order was mailed by Chambers to:*

Guerda Occilien  
522 West 147th Street  
3rd Floor, Apt. 31  
New York, NY 10031